IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRIMINAL MISC.NO. 23685 M OF 2007

DATE OF DECISION: APRIL 19, 2007

Hari Morekar and another

.....Petitioners

VERSUS

Smt.Jyoti

....Respondent

CORAM:- HON'BLE MR.JUSTICE RANJIT SINGH

1. **Whether Reporters of local papers may be allowed to see the judgement?**
2. **To be referred to the Reporters or not?**
3. **Whether the judgment should be reported in the Digest?**

PRESENT: Mr. Veneet Sharma, Advocate,
for the petitioners.

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RANJIT SINGH, J.

Smt.Jyoti, sole respondent in this petition, filed a complaint against the petitioners, making allegations of offences under Sections 406, 498A, 506, 34 IPC before the Court of Judicial Magistrate Ist Class, Amritsar. The petitioners were summoned through an order dated 2.6.2006. They have now filed the present petition, seeking quashing of the complaint and the summoning order, mainly on the ground that the Court at Amritsar would not have any territorial jurisdiction to try these offences.

Learned counsel for the petitioners would refer to ***Manish Ratan and Ors. Vs. State of M.P. & Anr.***, 2007 (1) RCR (Criminal) 513 in support of his contention that if cruelty to bride is at matrimonial home, then the Court at a

place to which she shifts to live with her parents would not have jurisdiction to try the offence of cruelty. Counsel has also referred to ***Y.Abraham Ajith and Ors. Vs. Inspector of Police, Chennai and anr.***, AIR 2004 SC 4286 to urge that where harassment to wife by a husband is at a place and wife come to live at Chennai thereafter, then the Court at Chennai would not have any jurisdiction to try complaint under Sections 498A, 406 IPC and Section 4 of the Dowry Prohibition Act. Manish Ratan's case (supra) was not a case of quashing and the aspect of jurisdiction was gone into by the Hon'ble Supreme Court while deciding the criminal appeal. Obviously, the plea of jurisdiction was bound to have been raised before the trial Court. Moreover, the factual position of this case was noticed by the Supreme Court to hold that Court at Datia, where the wife had come to stay would not have any jurisdiction as the cruelty was at matrimonial home at Jabalpur. In Y.Abraham Ajith's case (supra), however, Court was dealing with the petition filed before it, impugning the order passed by the High Court while exercising powers under Section 482 Cr.P.C. This was a case where the High Court did not consider the rival stands. It was held by the Hon'ble Supreme Court in this case that from the factual scenario disclosed by the complainant in the complaint, the inevitable conclusion was that no part of cause of action arose at Chennai and, therefore, the concerned Magistrate has no jurisdiction to deal with the matter. This position is not made very clear from the pleadings and the complaint annexed with the record. No doubt, it is evident from the petition that marriage took place at Delhi and the allegations in the complaint relate to Delhi but this aspect is not clear from the contents of the

complaint, Annexure P-4. Concededly, the complainant-wife is presently staying with her parents at Amritsar. Demand of dowry, if any, made to the parents of the respondent would, as such, be at Amritsar. Prima-facie, it can be said that demand, if any raised, would be from the parents of the complainant who are residing at Amritsar. As such, admittedly part of cause of action may arise in Amritsar as well. In all cases of this nature, the courts at place where the girl come to reside with her parents would have territorial jurisdiction to entertain complaints. In this regard, he has referred to ***Dharam Pal Goyal and others Vs. State of Haryana and another***, 2007 (4) P.L.R. 682. Plea of jurisdiction is generally a mixed question of fact and law and can be decided on the basis of material placed before the Court. It is required to be established before the Court trying the offences, if any cause of action or part of cause of action had arisen under the territorial jurisdiction of that Court. This fact can be decided one way or the other properly on the basis of evidence and material produced before the trial Court. In a very recent decision in the case of ***Vishwa Nath Gupta Vs. State of Uttaranchal,*** JT 2007 (5) SC 48, the Hon'ble Supreme Court has held that the Court at place where a call for ransom was received by the victim of the family would have jurisdiction to try the offence if abduction and murder, even though the abduction and murder took place outside the jurisdiction of said Court. Thus, receipt of threat and call for ransom was considered sufficient as part of cause of action to proceed in a criminal case and it is held that the trial Court erred in saying that it would not have jurisdiction in such a case. It would only reveal during proceedings if any such like part of cause of

action has taken place at Amritsar. In this view of the facts, which have been placed before the Court, it is not possible to say as to whether any cause of action or part of cause of action has arisen at Amritsar? Prima-facie, the demand for any dowry and harassment or cruelty on that count would be at a place where the parents reside as demand basically is raised before the parents. In this view of the matter, I am not inclined to quash the complaint and the summoning order while exercising jurisdiction under Section 482 Cr.P.C.

The petition shall accordingly stand dismissed in limine.

April 19, 2007 **(RANJIT SINGH)**
khurmi **JUDGE**